

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
UNITED STATES OF AMERICA, : 18-CR-134 (KAM)  
Plaintiff, :  
-against- : United States Courthouse  
DONVILLE INNISS, : Brooklyn, New York  
Defendant. : Friday, January 25, 2019  
: 10:00 a.m.  
-----X

TRANSCRIPT OF CRIMINAL CAUSE.  
FOR TELEPHONIC STATUS CONFERENCE  
BEFORE THE HONORABLE KIYO A. MATSUMOTO  
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Government: RICHARD P. DONOGHUE, ESQ.  
United States Attorney  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, New York 11201  
BY: SYLVIA SHWEDER, ESQ.  
GERALD MOODY, ESQ.  
Assistant United States Attorneys

For the Defendant: LAW OFFICES OF ANTHONY L. RICCO  
20 Vesey Street  
Suite 400  
New York, New York 10007  
BY: STEVEN Z. LEGON, ESQ.

Court Reporter: DAVID R. ROY, RPR  
225 Cadman Plaza East  
Brooklyn, New York 11201  
drroyofcr@gmail.com

Proceedings recorded by Stenographic machine shorthand,  
transcript produced by Computer-Assisted Transcription.

Proceedings

2

1 (In open court; Telephone call initiated.)

2 THE COURT: Hello. Good morning. This is  
3 Judge Matsumoto. This is a status conference in the case of  
4 United States versus Donville Inniss.

5 Will the Government first state its appearance,  
6 please.

7 (No audible response.)

8 THE COURT: Who is appearing for the Government?

9 (No audible response.)

10 THE COURT: Hello? Can the parties hear me?

11 MS. SHWEDER: Yes, Your Honor.

12 THE COURT: All right. This is a status  
13 conference in the case United States versus Donville Inniss,  
14 18-CR-134.

15 Who is on the line for the Government, please.

16 MS. SHWEDER: Sylvia Shweder for the  
17 United States. Good morning, Your Honor.

18 THE COURT: Good morning.

19 And what about for Mr. Inniss?

20 MR. MOODY: Gerald Moody for the United States is  
21 also on. Good morning, Your Honor.

22 THE COURT: Good morning.

23 MR. LEGON: Good morning, Your Honor. Steven  
24 Legon from the Offices of Attorney Anthony Ricco appearing  
25 for Donville Inniss, who is also on the line, Your Honor.

Proceedings

3

1 THE COURT: All right.

2 THE DEFENDANT: Good morning, Your Honor.

3 THE COURT: All right. So we have Mr. Legon with  
4 Mr. Inniss, and Mr. Inniss is also on the line.

5 MR. LEGON: Yes, Your Honor.

6 THE COURT: All right. Thank you.

7 I would like to note that this telephone  
8 conference is being held with -- at the request and with the  
9 consent of all the parties given the fact that Mr. Inniss  
10 resides currently in Florida, and I think that for the  
11 convenience of the parties that we agreed to do this by  
12 telephone.

13 All right. Does anyone object to this telephone  
14 conference?

15 (No audible response.)

16 THE COURT: No.

17 MR. LEGON: No, Your Honor, no objection.

18 THE COURT: All right. So I wanted to hold this  
19 conference because I know that Mr. Ricco's appearance in  
20 this case, his firm's appearance is fairly recent, and we  
21 have currently this case set for trial, I believe, on  
22 June 24. And I just wanted to see if that is still an  
23 acceptable date for the parties?

24 MS. SHWEDER: Obviously, that works for the  
25 Government, Your Honor.

## Proceedings

4

1 MR. LEGON: Your Honor, Steven Legon for the  
2 defense. I have spoken to the Government and we have  
3 briefly discussed the possibility making a request for the  
4 trial to be pushed back. I think that Mr. Ricco's  
5 instructions to me were to not ask for an adjournment unless  
6 one was offered. At this point, I believe that we can try  
7 the case in September -- excuse me in June -- the June's  
8 date; however, Mr. Ricco would prefer to try it in  
9 September. But I'm just throwing it out there and I'm not  
10 making the request, I'm just letting the Court know where we  
11 stand.

12 THE COURT: Well, saying you are not making a  
13 request but expressing a preference to have a trial in  
14 September is somewhat -- intention. So if Mr. Ricco does  
15 want to adjourn --

16 MR. LEGON: Well --

17 THE COURT: -- he needs to be clear. And the  
18 reason I am saying this is not because of anything  
19 particular to Mr. Ricco or the case or anything else, but I  
20 do have a fairly significant trial that I would slot into  
21 that date in June if this trial were not proceeding.

22 And then I note the other issue, which is I  
23 believe the indictment in this case named other defendants,  
24 and I did not know whether they are expected to be before  
25 the Court and whether we would have the ability to include

## Proceedings

5

1 them in the trial as well. If pushing it back were to  
2 result in, you know, a more cohesive single trial versus  
3 perhaps individual multiple trials.

4 MS. SHWEDER: Right, Your Honor. I think  
5 there's -- probably if it were in June there would be no  
6 chance of it. If it was in September, there would be some  
7 chance of it. We have to extradite for both of the other  
8 defendants, and extradition processes, are -- as Your Honor  
9 knows, I'm sure -- you know, it's just unpredictable. And  
10 so while there would be more chance if it were held in  
11 September, I wouldn't want to say, Oh, you know, then we'll  
12 definitely be able to have it done and disappoint everybody,  
13 so...

14 THE COURT: All right.

15 MS. SHWEDER: There is more of a chance in  
16 September, though.

17 THE COURT: All right. I means, it just seems to  
18 me to be more efficient, and if that is Mr. Ricco's  
19 preference I would be happy to accommodate him. But I would  
20 want to note on the record that that, you know, is his  
21 preference.

22 Is there any objection to that given what defense  
23 counsel has stated here on the record?

24 MS. SHWEDER: Well --

25 MR. LEGON: I'll let the prosecution answer.

Proceedings

6

1 THE COURT: Well, no. The question is directed to  
2 you, sir.

3 MR. LEGON: Okay. Your Honor, we're very mindful  
4 of the Court's scheduling order, and we did not want to do  
5 anything to inconvenience the Court unduly; and certainly we  
6 will abide by the direction of the Court, so we have no  
7 objection.

8 THE COURT: I know you do not have an objection,  
9 but you stated that Mr. Ricco preferred to have the trial in  
10 September. Is that --

11 MR. LEGON: That is -- that is correct.

12 THE COURT: All right. So that is why I am  
13 willing to accommodate that preference. I understand there  
14 may be --

15 MR. LEGON: And, you know -- Your Honor, I  
16 apologize. You were breaking up a little bit on the phone  
17 there. I may not exactly heard what I thought I heard.

18 But we would prefer to have the trial date moved  
19 to September. That is that would work better for the  
20 defense.

21 THE COURT: Well, let me say this: The motion  
22 schedule would probably stay as is. The complication may be  
23 if we have the other defendants join in this case and before  
24 the Court whether a further trial delay would result because  
25 they may need time to file motions or review discovery, et

## Proceedings

7

1 cetera. And I would not want do delay Mr. Inniss's right to  
2 a trial. I am happy to keep this on June 24th.

3 So I guess what I would say to you, Mr. -- I'm  
4 sorry, Mr. Legon --

5 MR. LEGON: Yes.

6 THE COURT: -- you really need to be clear about  
7 what you would like to do. I am ready and willing and able  
8 to try this case in June and if necessary, when the other  
9 defendants are here before the Court we will have to do  
10 another trial if they do not plead. So, you know, you need  
11 to decide. It is just unclear to me what, absent a request  
12 to adjourn, whether that makes sense to adjourn it. I  
13 understand his preference that he has not stated that he  
14 wants to have a postponement of this trial.

15 So given that, I suppose we will stick with the  
16 June 24th trial date, and the Government will keep us posted  
17 as to whether or not any of these defendants are expected to  
18 come to the court -- before this Court in the future. If  
19 they are brought here and arraigned in February, then I  
20 think a late June trial date is probably still possible.  
21 But if they request a later date, then we can think about a  
22 trial in the fall.

23 Does that make sense to --

24 MS. SHWEDER: Yes, Your Honor.

25 THE COURT: Is that an acceptable plan?

Proceedings

8

1 MS. SHWEDER: Yes, Your Honor.

2 THE COURT: All right.

3 MR. LEGON: Yes, Your Honor.

4 THE COURT: All right. So we will ask, then,  
5 whether Mr. Inniss wants to join in any application to  
6 exclude time up through and including the June 24th trial  
7 date?

8 MR. LEGON: Yes, Your Honor, we have no objection  
9 to the exclusion of time.

10 THE COURT: All right. So, sir, what I would  
11 suggest you do is write a letter to that fact, that you will  
12 continue to the exclusion of time through and including  
13 June 24th.

14 And does the Government have an objection for the  
15 exclusion of time?

16 MS. SHWEDER: Of course not, Your Honor.

17 THE COURT: And, Mr. Inniss, you previously were  
18 advised by the Court of your right to a speedy trial,  
19 because I believe --

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: -- exclusion of time up through today,  
22 and because you now have a new attorney on board, do you  
23 agree with and join in the application to exclude time from  
24 the speedy trial right up through and including June 24th.

25 THE DEFENDANT: Yes, Your Honor.



Proceedings

9

1 THE COURT: All right. Well, then we will grant  
2 the application for the reasons stated on the record,  
3 particularly the new counsel's appearance, the need to  
4 review discovery to prepare for trial, and I suppose --

5 Well, do the parties anticipate motions?

6 MS. SHWEDER: Yes, Your Honor.

7 THE COURT: All right.

8 MR. LEGON: Your Honor, we're uncertain at this  
9 time.

10 THE COURT: All right. But you had indicated  
11 earlier in this conversation that you were willing to abide  
12 by any Court-ordered scheduling.

13 Is that still the case?

14 MR. LEGON: Yes, that is correct, Your Honor.

15 THE COURT: All right.

16 Now, Ms. Shweder, did we arraign Mr. Inniss yet on  
17 the superseding indictment? I see an order that  
18 indicates --

19 MS. SHWEDER: Yes.

20 THE COURT: Okay.

21 MS. SHWEDER: Oh, I'm sorry. Yes. Yes,  
22 Your Honor, on August 23, 2018 you arraigned Mr. Inniss on  
23 both the underlying indictment and the superseding  
24 indictment.

25 THE COURT: All right. Great. Thank you.

Proceedings

10

1 All right. I just want to go back and review the  
2 docket and see if there has been a pretrial scheduling order  
3 for all motions yet?

4 MS. SHWEDER: Yes, Your Honor, on January 9th.

5 THE COURT: January 9th. Okay. Good. Yes, I see  
6 it now. Thank you.

7 All right. So, Mr. Legon, we will expect to see  
8 any motions from the defense side according to the schedule  
9 that was just issued. Would you like another status between  
10 now and then, between now and the trial date? I do not  
11 think that that would be a bad idea.

12 Do the party have a need to --

13 MR. LEGON: Yes, Your Honor.

14 THE COURT: I'm sorry. Go ahead, sir.

15 MR. LEGON: I'm sorry. I'm sorry, Your Honor.  
16 Proceed.

17 I just -- you're breaking up a little bit on my  
18 phone, and I wasn't able to hear everything that was being  
19 said in the last few seconds.

20 THE COURT: If you are on a cell phone, then maybe  
21 in the future if you want to do a phone conference, you  
22 should use a landline because I had trouble at times, not  
23 now but at the beginning of the conference, where you were  
24 breaking up as well.

25 Is there anything --

Proceedings

11

1 MR. LEGON: I'm sorry, Your Honor.

2 THE COURT: Do you want me to repeat anything,  
3 Mr. Legon?

4 (No audible response.)

5 THE COURT: No?

6 All right. So we have --

7 MR. LEGON: Hello?

8 THE COURT: Did you want me to repeat anything,  
9 sir?

10 MR. LEGON: Oh, no, no, no, no. I -- I -- I can  
11 hear you now. I can hear you now, Your Honor.

12 THE COURT: All right. So the question was, you  
13 indicated that you could abide by the January 9th scheduling  
14 order for motions. And we had asked you to file the joint  
15 status letter by April 26, 2019.

16 But if there is a need for a status conference  
17 before that date, please let me know. All right?

18 MR. LEGON: Certainly, Your Honor.

19 MS. SHWEDER: Thank you.

20 MR. LEGON: And if I may just add one thing?

21 Obviously, our review of discovery may yield some  
22 motions that we're unaware of at this time, and we're going  
23 through the discovery as quickly as we could. We have all  
24 the discovery from the Government and received the most  
25 recent disclosure last week. And at this juncture, we don't

## Proceedings

12

1 see any motion that would be necessitated by the discovery  
2 reviews. But once again, that's always in any case, a  
3 possibility that upon reviewing some new information, a new  
4 motion may arise and we would seek to file that within the  
5 schedule deadline. And if -- if we need discovered  
6 something after the deadline we would make it known to  
7 the Court.

8 THE COURT: All right. Well, I think the time  
9 between now and March 4th is sufficient to allow you to  
10 review the discovery and determine whether and what motions  
11 to make. So if the March 4th deadline is not going to be  
12 feasible, hopefully, you will write me in advance of that  
13 date. But if we are going forward with June for the trial,  
14 then I would not be willing or would be able to give you  
15 much more in the way of adjournment, because I will be in  
16 trial pretty much starting April 1st through and including  
17 the day of this trial.

18 Is there anything else we need to address from the  
19 parties?

20 MS. SHWEDER: Not from the Government.

21 THE COURT: All right. So --

22 MR. LEGON: Not from Defense, Your Honor.

23 THE COURT: Thank you.

24 All right. So, sir, Mr. Legon, I hope to see your  
25 letter before close of business today indicating that your

Proceedings

13

1 client has joined in and request the exclusion of time and  
2 that he does not, you know, object to the exclusion of time  
3 up through and including June 24th.

4 All right?

5 MR. LEGON: Certainly, Your Honor.

6 THE COURT: All right. Thank you very much. Have  
7 a good weekend everybody.

8 MS. SHWEDER: You, too. Thank you, Your Honor.

9 MR. LEGON: You, too. Thank you, Your Honor.

10 THE COURT: All right. Bye.

11 (Matter concluded.)

12 --oo0oo--

13

14

15

16

17 *I (we) certify that the foregoing is a correct transcript*  
18 *from the record of proceedings in the above-entitled matter.*

18

19 /s/ David R. Roy  
DAVID R. ROY

January 25, 2019  
Date

20

21

22

23

24

25